

SENATE BILL REPORT

SHB 1215

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, March 23, 2009

Title: An act relating to modifying motor vehicle warranty provisions.

Brief Description: Modifying motor vehicle warranty provisions.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Chandler, Kirby, Ormsby and Morrell; by request of Attorney General).

Brief History: Passed House: 3/03/09, 96-1.

Committee Activity: Labor, Commerce & Consumer Protection: 3/16/09, 3/23/09 [DPA, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: Do pass as amended.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin, King and Kline.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford.

Staff: Alison Mendiola (786-7483)

Background: The Motor Vehicle Warranty Act (Act), commonly called the lemon law, was created in 1987 and establishes rights and responsibilities for consumers and manufacturers when new or nearly new vehicles are defective. The statute establishes three definitions of a "lemon:" (1) a vehicle with a serious safety defect that the manufacturer has unsuccessfully attempted to repair at least two times; (2) a vehicle with some other substantial defect that the manufacturer has unsuccessfully attempted to diagnose or repair at least four times; or (3) a vehicle that has been out of service for 30 cumulative calendar days with at least 15 of those days occurring during the warranty period.

If a vehicle meets one of these definitions, the manufacturer must either replace or repurchase the vehicle, whichever remedy the consumer chooses. For the purposes of the Act, a vehicle includes motor homes and motorcycles that have an engine displacement of at least 750 cubic centimeters.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Act applies to vehicles that the consumer (1) purchased or leased in Washington; and (2) initially registered in Washington.

Summary of Bill (Recommended Amendments): Numerous changes are made to the provisions of the Act in the bases for a claim, circumstances related to modifications of a vehicle by a dealer, the arbitration process, the sale of reacquired vehicles, and the application of the Act to vehicles sold or leased to armed services personnel.

In addition to the three existing bases for claims under the Act, an additional base is added: two or more serious safety defects (a serious safety defect is a life threatening malfunction or nonconformity) occurring within 12 months; for motor homes the two safety defects must be attributable to a single manufacturer. The term "warranty period" is replaced with the term "eligibility period."

For motor homes with two or more serious safety defects covered by the same manufacturer's warranty, a notice of the safety defect must be provided by the customer to the manufacturer in writing. The manufacturer is to consider this request as a request for a safety evaluation of the motor home. If the manufacturer chooses to perform a safety evaluation, the manufacturer is to provide a written report on the evaluation to the consumer in a timely manner.

Warranties include modifications by new motor vehicle dealers if the dealer is installing the manufacturer's authorized parts for the specific vehicle according to the manufacturer's specifications. The definition of manufacturer is extended to include a post-manufacturing modifier of a motor vehicle that modifies the vehicle prior to the initial retail sale or lease.

If a customer requests a modification that would partially or completely void the manufacturer's warranty, a dealer must provide a disclosure, signed and dated by the customer, that says, "Your requested modification may void all or part of a manufacturer warranty and a resulting defect or condition may not be subject to remedies afforded by the Motor Vehicle Warranties Act, chapter 19.118 RCW."

The warranty provisions are extended to motor vehicles purchased or leased by members of the armed forces regardless of whether the vehicle was purchased or leased in the state.

Changes are also made to the arbitration process. The Attorney General may manage certain aspects of the process rather than contracting out to an arbitration board for the entire process.

Prior to selling a reacquired vehicle, the manufacturer must apply for a new title with the Department of Licensing (DOL). DOL must issue a new title with a title brand indicating that the vehicle was returned to the manufacturer under the Act and provide information that the nonconformity has been corrected.

The provisions are remedial in nature and apply retroactively to the effective date of the Act.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Amendments): It is clarified for the basis of two or more serious safety defects, that each of the defects must have been subject to diagnosis or repair.

For motor homes with two or more serious safety defects covered by the same manufacturer's warranty, a notice of the safety defect must be provided by the customer to the manufacturer in writing. The manufacturer is to consider this request as a request for a safety evaluation of the motor home. If the manufacturer chooses to perform a safety evaluation, the manufacturer is to provide a written report on the evaluation to the consumer in a timely manner.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: PRO: The bill in its current form reflects input from various stakeholders. There is commitment to continue working out the technical aspects. The goal is to provide increased consumer protections.

OTHER: The new motor home language needs clarification. The manufacturer needs notice and the opportunity to do a safety inspection. It should be clarified that each of the two defects should be subject to diagnosis or repair.

Persons Testifying: PRO: Lisa Erwin, Paul Corning, Attorney General's Office.

OTHER: James Curry, General Motors; Steve Buckner, Association of International Auto Dealers; Stu Halsan, Recreation Vehicle Industry Association.